

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
A. FOSSI,

Appellant,

v.

SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB No. 78-266

FINAL ORDER DISMISSING APPEAL

THIS MATTER, the appeal of a \$100 civil penalty for outdoor burning having come on regularly for formal hearing on the 9th day of March, 1979, in Longview, Washington, and appellant, A. Fossi, appearing pro se, and respondent, Southwest Air Pollution Control Authority, appearing through its enforcement officer, Jim Ablin with William A. Harrison, hearing examiner presiding, and the Board having considered the exhibits, records and files herein and having reviewed the Proposed Order Dismissing Appeal of the presiding officer mailed to the parties on the 19th day of March, 1979, and more than twenty days having elapsed from said service; and

WH/LB

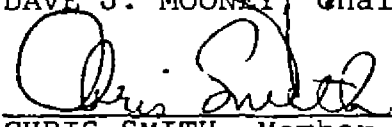
1 The Board having received no exceptions to said Proposed Order
2 Dismissing Appeal and the Board being fully advised in the premises;
3 now therefore,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said Proposed
5 Order Dismissing Appeal dated the 19th day of March, 1979, and incorporated
6 by reference herein and attached hereto as Exhibit A, is adopted and
7 hereby entered as the Board's Final Order Dismissing Appeal herein.

8 DATED this 5th day of June, 1979.

9 POLLUTION CONTROL HEARINGS BOARD

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12 DAVE J. MOONEY, Chairman

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14 CHRIS SMITH, Member

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16 DAVID AKANA, Member

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Vancouver, Washington 98665

LARENE BARLIN
LARENE BARLIN, ADMINISTRATIVE ASSISTANT
POLLUTION CONTROL HEARINGS BOARD

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CONTROL AUTHORITY,

Respondent.

PCHB No. 78-266

ORDER DISMISSING APPEAL

This matter, the appeal of a \$100 civil penalty for outdoor burning allegedly in violation of Section 4.01 of respondent's Regulation I, came before the Pollution Control Hearings Board convened at Longview, Washington on March 9, 1979. Hearing examiner William A. Harrison presided alone. Respondent elected a formal hearing pursuant to RCW 43.21B.330.

Appellant appeared and represented himself. Respondent appeared by its enforcement officer, Jim Ablin. Olympia reporter Marilyn Hoban recorded the proceedings.

Respondent moved to dismiss this appeal on grounds that the appellant had not made timely filing of his Notice of Appeal. Witnesses were sworn and testified and exhibits were examined regarding this Motion.

Having heard the Motion, having heard the oral argument of the parties, having considered the testimony and exhibits and being fully advised, the Hearings Board concludes that appellant has not timely filed his Notice of Appeal. The Hearings Board therefore has no jurisdiction over this appeal, and it must be dismissed. RCW 43.21B.120, RCW 70.94.431 and WAC 371-08-075, 371-08-080 and 371-08-085.

While appellant has made a good faith attempt to file a timely appeal, we have long held that the law imparts to us no discretion to waive or extend the time for filing an appeal. William C. Markham v. PSAPCA, PCHB No. 483 (1974); Coast Investment Co. (Viceroy Apartments) v. PSAPCA, PCHB No. 470 (1974); Trinidad Corp. (SS HOUSTON) v. PSAPCA, PCHB No. 715 (1974); Trans American Development & Construction, Inc. v. PSAPCA, PCHB No. 773 (1975); Hillis Homes, Inc. and First Bank Mortgage Co. v. PSAPCA, PCHB No. 945 (1976); M. G. Development Corp. v. PSAPCA, PCHB No. 1118 (1977) and Department of the Navy v. PSAPCA, PCHB No. 77-173 (1978). Because of this, we cannot reach the merits of this appeal which would be the first point at which we could, if appropriate, grant the relief which appellant requests.

NOW, THEREFORE, the Pollution Control Hearings Board enters the following

ORDER

The appeal in this matter is stricken and dismissed for not

ORDER DISMISSING APPEAL 2

1 be timely made within the laws of the State of Washington and the
2 rules and regulations of the Pollution Control Hearings Board.

3 DONE at Lacey, Washington, this 19th day of March, 1979.

4 POLLUTION CONTROL HEARINGS BOARD

5 William A. Harrison
6 WILLIAM A. HARRISON
7 Presiding Officer
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26 ORDER DISMISSING APPEAL

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